

PROPERTY TAX DEDUCTION Q&A

AUDITOR'S ASSOCIATION SPRING CONFERENCE

Indiana Department of Local Government Finance
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- 1. A wife filed for the Over 65 Circuit Breaker Credit on or before December 31, 2009 for a property that is deeded in her name only. Her tax return for 2008 (see note below) was filed jointly for both the husband and wife. However, the husband died in 2008. When considering the income limitations for the Over 65 Circuit Breaker Credit, do we go by single or joint income for 2009 pay 2010 property taxes?**

Under IC 6-1.1-20.6-8.5(d), the following adjusted gross income limits apply to an individual who claims the Over 65 Circuit Breaker Credit:

(1) In the case of an individual who files a single return, the adjusted gross income of the individual claiming the credit may not exceed \$30,000.

(2) In the case of an individual who files a joint income tax return with the individual's spouse, the combined adjusted gross income of the individual and the individual's spouse may not exceed \$40,000.

Because the wife filed a joint income tax return with her now deceased husband, the combined adjusted gross income of both the husband and wife must be considered for the 2009 pay 2010 property taxes. If the wife files a single return for 2009, only her adjusted gross income will be considered when determining eligibility for the 2010 pay 2011 property taxes.

NOTE: For property taxes due and payable in 2010, the adjusted gross income considered for the Over 65 Circuit Breaker Credit is that which was reported on the 2008 tax return. 2009 tax returns may not be submitted until April 2010 and therefore cannot be used to determine income for credits for taxes due and payable in 2010.

- 2. In order to receive the Over 65 Circuit Breaker Credit, do both the individual and the individual's spouse have to be over 65 to receive the credit? With the Over 65 Deduction, we would allow 50 percent of the deduction if the spouse was not at least 65 years of age – does this same rule apply with the credit?**

Only the individual applying for the Over 65 Circuit Breaker Credit must be at least 65 years of age on or before December 31 of the calendar year immediately preceding the calendar year in which property taxes are first due and payable. (Individual must be at least 65 years of age on or before December 31, 2009 in order to receive the credit for 2009 pay 2010 property taxes.) Regardless of the age of the individual's spouse, the qualified individual will receive the full benefit of the Over 65 Circuit Breaker Credit.

- 3. Homestead standard deduction was filed by property owner's Power of Attorney. Property owner presently lives in a senior housing apartment but is moving to assisted living. The house is being rented. The homeowner never applied for the deduction in the past, but the Power of Attorney noticed the taxes were high and no deductions had been filed for the property. Is homeowner eligible for Homestead Standard Deduction?**

An individual should not be denied the deduction, because the individual is absent from the property while in a nursing home, hospital or assisted living facility so long as the property is being maintained as the individual's residence with the intention of the individual returning to the property. Because the property in question is being used as a rental property, it is not being maintained as the homeowner's principal place of residence. Therefore, the homeowner is not eligible for the Homestead Standard Deduction on this property.

4. A married couple owns two homes. The husband and wife claim to be living in a different home, can they both have a Homestead Standard Deduction?

Under Indiana Code 6-1.1-12-37(f), the county auditor may not grant an individual or a married couple a Homestead Standard Deduction if the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and the applications claim the deduction for different property. A married couple is limited to one homestead standard deduction statewide regardless of living arrangements or how the properties are deeded. This same limitation applies whether the homes are located in the same or different counties.

NOTE: Per House Enrolled Act 1344, if on March 1, 2009 a man and woman each own a home and are receiving the Homestead Standard Deduction on each of those individual properties, the one Homestead Standard Deduction limitation does not apply should the couple marry and apply for the Homestead Standard Deduction on their joint residence. The homesteads will remain on the individual properties of the husband and wife for 2009 pay 2010 without affecting the eligibility of the married couple to receive the homestead standard deduction on their joint property for 2009 pay 2010.

5. An annually assessed/personal property mobile home has been granted a 100 percent exemption from property taxes. The sum of the deductions provided to an annually assessed mobile home may not exceed one-half (½) of the assessed value of the mobile home. How should this situation be handled?

Under Indiana Code 6-1.1-12-40.5, the sum of the deductions provided to an annually assessed mobile home may not exceed ½ of the assessed value of the mobile home. However, deductions are not the same as exemptions. An annually assessed mobile home may receive a 100 percent exemption from property taxation.

6. Jane Smith purchased her grandmother's house on April 30, 2009. Her grandmother had the Homestead Standard Deduction, the Over 65 Deduction and the Over 65 Circuit Breaker Credit. Jane has filed for the Homestead and Mortgage Deductions. Since Jane is not 65 would the Over 65 Deduction and the Over 65 Circuit Breaker be removed for 2009 pay 2010?

Yes, Jane can only receive the deductions for which she has applied and is eligible to receive. Since Jane is not 65 years old she cannot receive the Over 65 Deduction and the Over 65 Circuit Breaker Credit.

7. J&J Rental Properties LLC purchases a home from the Masons on July 15, 2009. The Masons had Homestead, Mortgage and Disabled Veteran Deductions. Will J&J Rental Properties LLC be able to use the Masons's deductions for 2009 pay 2010?

If a Homestead Standard Deduction is filed successfully for a property on March 1, 2009, the deduction will be applied for 2009 pay 2010 regardless of changes in ownership or eligibility. However, all other deductions for which J&J Rental Properties LLC is not eligible to receive should be removed for 2009 pay 2010.

If J&J Rental Properties LLC sells the property to another owner before March 1, 2010 (between January 1, 2009 and February 28, 2009) the carry over provision may allow this new owner to receive some of the Masons's deductions. If the new owner is eligible for the Masons's deductions on March 1, 2010, the deductions filed by the Masons as of March 1, 2009 will carry over for 2009 pay 2010 for the new owner.

- 8. The Andersons purchase a new home at 1234 Main Street on March 15, 2009. They have been unable to sell their old home at 5678 North Avenue. They have Homestead and Mortgage deductions filed for both properties. For 2009 pay 2010, they will get both deductions, correct?**

If a Homestead Standard Deduction is filed successfully for a property on March 1, 2009, the deduction will be applied for 2009 pay 2010 regardless of changes in ownership or eligibility. Therefore, because the Andersons have a Homestead Standard Deduction successfully filed on their old home at 5678 North Avenue as of March 1, 2009, they will receive the deduction on that property for 2009 pay 2010 even though this property is no longer their principal place of residence. Since the Andersons purchased a new home and filed for the Homestead Standard Deduction on that property before the December 31, 2009 deadline, they also will receive the Homestead Standard Deduction on the new property for 2009 pay 2010. The Homestead Standard Deduction would be removed from the old home for 2010 pay 2011 if the Andersons continue to own the property.

The Andersons would receive the Mortgage Deduction on their old home for 2009 pay 2010. Because there is no mortgage balance on the new home as of the March 1, 2009 assessment date, the Andersons will not receive the benefit of a mortgage deduction on their new home until 2010 pay 2011.

If the property on North Avenue has been used as a rental the entire time since March 15, does that alter the use of the Homestead and Mortgage deductions on this property?

If a Homestead Standard Deduction is filed successfully for a property on March 1, 2009, the deduction will be applied for 2009 pay 2010 regardless of changes in ownership or eligibility. Therefore, because the Andersons have a Homestead Standard Deduction successfully filed on their old home at 5678 North Avenue as of March 1, 2009, they will receive the deduction on that property for 2009 pay 2010 even though this property is no longer their principal place of residence. Eligibility for the Mortgage Deduction is not affected by the rental use of the property.

If the house at 1234 Main Street had been bought in December of 2008, would only that property receive the deductions for 2009 pay 2010 since the property owners would have two properties?

If the Andersons had purchased their new home in December of 2008 and filed for the Homestead Standard Deduction on that property, that would have effectively removed the Homestead Standard Deduction from their old home for 2008 pay 2009 as well as 2009 pay 2010. The Andersons would receive the Homestead Standard Deduction on their new home for 2008 pay 2009 and 2009 pay 2010.

The Andersons would receive the Mortgage Deduction on their old home for 2008 pay 2009. Since there would be a mortgage balance for both the old and new homes on the March 1, 2009 assessment date, the Andersons could receive Mortgage Deductions on both properties for 2009 pay 2010. Depending on how the mortgages are recorded, Mr. Anderson could file for a Mortgage Deduction on one property and Mrs. Anderson could file for a Mortgage Deduction on another property. Married couples are not limited to one Mortgage Deduction. However, the sum of Mortgage Deductions applied to a single property cannot exceed \$3,000, and an individual cannot receive more than \$3,000 in Mortgage Deductions.

- 9. Regarding the Carry Over Provision, the only deductions that are eligible for carry over are the ones for which the new owner qualifies, correct? The guidelines for the Blind/Disabled Deduction, Over 65 Deduction, Over 65 Circuit Breaker Credit and Disabled Veteran Deduction have to be met by the new owner for the deduction to stay in place for that tax year or do they stay in effect for current tax year and removed one year out?**

The carry over provision for 2008 pay 2009 may apply for individuals who purchase a property between January 1, 2009 and February 28, 2009. In order for a new owner to benefit from the Carry Over Provision, the new owner must be eligible for the old owner's deductions (in place on the property as of the March 1, 2008 assessment date) on March 1, 2009. It is possible for the new owner to meet the eligibility requirements of the Blind/Disabled Deduction and Disabled Veteran Deduction and have those deductions carry over from the old owner for the 2008 pay 2009 property taxes.

However, the eligibility requirements of the Over 65 Deduction and the Over 65 Circuit Breaker Credit prevent the Carry Over Provision from applying. The Over 65 Deduction requires that the individual has owned the property for at least one year before claiming the deduction. If an individual purchases a property between January 1, 2009 and February 28, 2009, it is impossible for that individual to meet the one year requirement by March 1, 2009. The Over 65 Circuit Breaker Credit requires that the individual be eligible for the Homestead Standard Deduction for the previous year. Again, if an individual purchases a property between January 1, 2009 and February 28, 2009, it is impossible for that individual to have received the Homestead Standard Deduction for the previous year.

If the new owner receives the benefit, through the Carry Over Provision, of the previous owner's deductions for 2008 pay 2009, those deductions will be removed for 2009 pay 2010 if the new owner does not file for his own deductions by December 31, 2009.

- 10. A Veteran is partially disabled and also has the Homestead Standard and Mortgage Deductions. For pay 2009 with the Supplemental Homestead Deduction, the Veteran is receiving an increase in remaining credit to apply to excise. The only vehicle the Veteran owns uses only a small fraction of the credit available for excise. We have had a huge number who want that benefit. BMV stated that it could only give the Veteran the excise amount on their plate. Veterans want that extra money entitled to them. What is the Veteran to do to claim the remaining credit?**

If the Veteran does not use the deduction amount granted to him on real property, personal property and then excise tax credit, he is not entitled to the remaining amount of deduction. Deduction amounts are maximums that a qualified person can receive. For example, let's say the Veteran described in the question above owns a homestead property assessed at \$75,000 and no personal property. His deductions would be applied as follows:

Gross Assessed Value	\$75,000
Homestead Standard Deduction	<u>(\$45,000)</u>
	\$30,000
Homestead Supplemental Deduction	<u>(\$10,500)</u>
	\$19,500
Mortgage Deduction	<u>(\$3,000)</u>
	\$16,500
Partially Disabled Veteran Deduction	<u>(\$16,500)</u>
Net Assessed Value	\$0

The Partially Disabled Veteran Deduction (IC 6-1.1-12-13) allows a qualified individual a deduction up to \$24,960. The Veteran used only \$16,500 on his real property so he has \$8,460 remaining to use as excise tax credit. Clearly, he is not going to need that full amount. Any amount that is not used toward excise tax credit (or personal property if applicable) is lost.

11. Will the Homestead Standard Deduction application form be revised to include an area to input the social security/driver's license number? How soon will this happen and when should our staff begin collecting this information?

Yes, both the Homestead Standard Deduction application form and the Sales Disclosure Form, which can be used to apply for the Homestead Standard Deduction, are in the process of being updated to accommodate the collection of this information. These forms will be available no later than July 1, 2009. Collection of the identification number when new applications are filed should begin July 1, 2009 when the new forms are available.

Tax bills in 2010, 2011 and 2012 will include a form for taxpayers who are already receiving deductions to use to verify certain deductions and provide their identification number. The county auditor may terminate the deductions for 2012 pay 2013 if an individual does not verify the deductions before January 1, 2013. Notice of the proposed termination must be provided.

12. How do we get the taxpayer's social security/driver's license number for the Homestead Standard Deduction when he has had the property with a Homestead filed for 20 years?

Tax bills in 2010, 2011 and 2012 will include a form for taxpayers who are already receiving deductions to use to verify certain deductions and provide their identification number. The county auditor may terminate the deductions for 2012 pay 2013 if an individual does not verify the deductions before January 1, 2013. Notice of the proposed termination must be provided.

13. What is the deadline for filing for the Model Residence Deduction for 2008 pay 2009?

To receive the retroactive Model Residence Deduction for 2008 pay 2009, the qualified property owner must file State Form 53947 with the county auditor not later than December 31, 2010.

If the 2008 pay 2009 property taxes already have been paid, the person who paid the taxes is entitled to a refund of the amount that has been overpaid after applying the model residence deduction. A property owner is not required to apply for this refund. The county auditor must, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner.

14. Is a Veteran with a 10 percent service connected disability eligible for both the Veteran Deduction (\$24,960) and the Disabled Deduction of \$12,480?

Assuming the individual meets all eligibility requirements for both the Veteran Deduction and Disabled Deduction, there is no limitation preventing the individual from receiving both benefits.

15. Can a married couple who owns more than one home file for a mortgage deduction on each home? Is yes, do they get the full \$3,000 on each home?

Yes, Married couples are not limited to one Mortgage Deduction. Depending on how the mortgages are recorded, the husband could file for a Mortgage Deduction on one property and the wife could file for a Mortgage Deduction on another property. The mortgage recorded for each of these properties must be in the name of the person claiming the mortgage deduction. For example, the wife cannot claim a mortgage deduction on a property if the mortgage is only in her husband's name. The sum of Mortgage Deductions applied to a single property cannot exceed \$3,000, and an individual cannot receive more than \$3,000 in Mortgage Deductions.

16. When a person files for a Disabled Deduction do they get it if they have a letter from a physician? Do we need to verify the income also? Also, do we use the total income of all property owners on that property?

For purposes of the Disabled Deduction, individual with a disability means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which: (1) can be expected to result in death; or (2) has lasted or can be expected to last for a continuous period of not less than 12 months.

An individual with a disability shall submit proof of disability. Proof that a claimant is eligible to receive disability benefits under the federal Social Security Act (42 U.S.C. 301 et seq.) shall constitute proof of disability. An individual with a disability not covered under the federal Social Security Act shall be examined by a physician and the individual's status as an individual with a disability determined using the same standards as used by the Social Security Administration.

Yes, you will need to verify that the individual meets the income requirements associated with the Disabled Deduction. The individual's taxable gross income (does not include income which is not taxed under the federal income tax laws) for the calendar year preceding the year in which the deduction is claimed cannot exceed \$17,000. Only the disabled individual's income must be considered when determining eligibility for the Disabled Deduction.

17. What is the Indiana Code that says that if a person changes their deed they need to re-file their deductions?

Under Indiana Code 6-1.1-12-17.8 and 6-1.1-12-36, an individual who receives a deduction in a particular year and who remains eligible for that deduction in the following year is **NOT** required to file a statement to re-apply for the deduction.

An individual who receives a deduction for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is **NOT** required to file a statement to re-apply for the deduction following the removal of the joint owner if:

- (1) The individual is the sole owner of the property following the death of the individual's spouse;
- (2) The individual is the sole owner of the property following the death of the joint owner who was not the individual's spouse; or
- (3) The individual is awarded sole ownership of the property in a divorce decree.

A trust entitled to a deduction (see IC 6-1.1-12-17.9 for a list of those deductions which a trust is eligible to receive) for real property owned by the trust and occupied by an individual is **NOT** required to file a statement to apply for the deduction if the individual who occupies the property receives the deduction in the previous year and the trust remains eligible for the deduction in the following year.

If a mortgage is refinanced, an individual receiving the Mortgage Deduction will need to re-file for the Mortgage Deduction because the amount of the refinanced mortgage may affect the amount of the deduction or the number of years it will be received.

Reapplication for deduction only is necessary if the property is sold or the title substantially changed.

18. Ken and Lenora Magnett, husband and wife, own a home and claim the Homestead Standard Deduction. Now, Ken and Julie Magnett buy a property as joint tenants with right of survivorship. We also know that Lenora is deceased. Ken and Julie file for their Homestead Standard Deduction with the Sales Disclosure Form. Julie signs the Sales Disclosure Form. Sales Disclosure Form says that new property is her principal place of residence with that address but the deed says to mail tax statements to Ken and Lenora address. Do we assume that Ken and Julie are not husband and wife and allow the Homestead with the mailing address being different than the property address?

Since the Homestead Standard Deduction eligibility requirements limit a married couple to one, as part of determining eligibility you should confirm whether or not Ken and Julie are a married couple. If they are not married, you should allow the deduction even though the mailing address is different than the property address.

After July 1, 2009 when an individual applies for the Homestead Standard Deduction, he or she will have to provide the last five digits of his or her social security number and the last five digits of his or her spouse's social security number.

19. As far as trusts, some attorneys have told us they shouldn't have the Homestead Standard Deduction because they are entities. Will any trust be able to receive the Homestead Standard Deduction?

For 2008 pay 2009, trusts are not eligible for the Homestead Standard Deduction. However, House Enrolled Act (HEA) 1344 allows trusts to once again receive the Homestead Standard Deduction for 2009 pay 2010 and thereafter.

For 2009 pay 2010, a trust is entitled to the list of deductions below for real property owned by the trust and occupied by an individual if the county auditor determines that the individual"

- (1) Upon verification in the body of the deed or otherwise, has either:
 - a. A beneficial interest in the trust; or
 - b. The right to occupy the real property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);
- (2) Otherwise qualifies for the deduction; and
- (3) Would be considered the owner of the real property under IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

For 2009 pay 2010, trusts are eligible to receive:

- Over 65 Deduction
- Blind or Disabled Deduction
- Veteran with Service Connected Disability Deduction
- Disabled Veteran Deduction
- Surviving Spouse of Veteran Deduction
- World War I Veteran Deduction
- Homestead Standard Deduction

20. Are Limited Partnerships, Incorporated, Limited Liability Company, etc. allowed the Homestead Standard Deduction if they bring something proving they are the LP, LLC or Inc.?

No, the term "homestead" does not include property owned by a corporation, partnership, Limited Liability Company or other entity.

A "homestead" means an individual's principal place of residence that the individual owns; is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or is entitled to occupy as a tenant-stockholder of a cooperative housing corporation. A "homestead" also is a residence that is owned by a trust if the individual meets the requirements in Indiana Code 6-1.1-12-17.9 (see answer to Question 19).

- 21. The problem in the past with using driver's license and ID is that they can have a Florida license and come back here and get an Indiana license. This doesn't help when trying to check for Homestead fraud.**

The individual applying for the Homestead Standard Deduction is required to provide the last five digits of his social security number (and the last five digits of his spouse's social security number if applicable). Only if the applicant or the applicant's spouse (if any) does not have a social security number may the driver's license or other identification number be provided instead.

- 22. For 2008 pay 2009, a property is receiving a non-taxable exemption. The house sold and the owner filed for the Homestead Standard and Mortgage Deductions, how should we handle this?**

The exemption should be removed when the property is sold because the new owner is not eligible for the non-taxable exemption. The owner of the property must be eligible for the exemption in order to receive it. If the property is purchased in 2009, the exemption should be removed and the Homestead Standard and Mortgage Deductions applied for 2009 pay 2010.

- 23. If a taxpayer uses the Sales Disclosure Form (SDF) to apply for the environmental deductions, what does the Indiana Department of Environmental Management (IDEM) need from the county auditor?**

The SDF can serve as an application for the Solar Energy Heating/Cooling System Deduction, Wind Power Device Deduction, Hydroelectric Power Device Deduction and the Geothermal Device Deduction. In order to receive the Hydroelectric Power Device or Geothermal Device Deductions, a certificate of qualification must be on file with IDEM. If the applicant does not provide that certificate with the SDF, the county auditor should contact IDEM to determine if a qualifying certificate is on file for the property and device in question. If no certificate exists, the taxpayer should be notified so the he can apply for certification from IDEM. If IDEM fails to make a determination before December 31 of the year in which the application is received, the system or device is considered certified.

If you have any additional questions regarding property tax deductions or credits, please contact Communications Specialist Amanda Stanley at astanley@dlgf.in.gov or 317-233-9218.